

Senate Resolution 1013

By: Senators Heath of the 31st, Mullis of the 53rd, Jackson of the 24th, Butterworth of the 50th, Rogers of the 21st and others

A RESOLUTION

Proposing an amendment to the Constitution so as to eliminate the requirement that the State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor be elected; to provide for modifications to provisions regarding the State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor; to provide for the authority of the General Assembly with respect to the foregoing; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article II, Section III, Paragraph I of the Constitution is amended by revising subparagraphs (a) and (b) as follows:

"(a) As used in this Paragraph, the term 'public official' means the Governor, the Lieutenant Governor, the Secretary of State, the Attorney General, ~~the State School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, the Commissioner of Labor,~~ and any member of the General Assembly.

(b) Upon indictment for a felony by a grand jury of this state or by the United States, which felony indictment relates to the performance or activities of the office of any public official, the Attorney General or district attorney shall transmit a certified copy of the indictment to the Governor or, if the indicted public official is the Governor, to the Lieutenant Governor who shall, subject to subparagraph (d) of this Paragraph, appoint a review commission. If the indicted public official is the Governor, the commission shall be composed of the Attorney General; and the Secretary of State, ~~the State School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, and the Commissioner of Labor.~~ If the indicted public official is the Attorney General, the commission shall be composed of three other public officials who are not members of the General Assembly. If the indicted public official is not the Governor, the Attorney General, or a member of the General Assembly, the commission shall be composed of the Attorney

General and two other public officials who are not members of the General Assembly. If the indicted public official is a member of the General Assembly, the commission shall be composed of the Attorney General and one member of the Senate and one member of the House of Representatives. If the Attorney General brings the indictment against the public official, the Attorney General shall not serve on the commission. In place of the Attorney General, the Governor shall appoint a retired Supreme Court Justice or a retired Court of Appeals Judge. The commission shall provide for a speedy hearing, including notice of the nature and cause of the hearing, process for obtaining witnesses, and the assistance of counsel. Unless a longer period of time is granted by the appointing authority, the commission shall make a written report within 14 days. If the commission determines that the indictment relates to and adversely affects the administration of the office of the indicted public official and that the rights and interests of the public are adversely affected thereby, the Governor or, if the Governor is the indicted public official, the Lieutenant Governor shall suspend the public official immediately and without further action pending the final disposition of the case or until the expiration of the officer's term of office, whichever occurs first. During the term of office to which such officer was elected and in which the indictment occurred, if a nolle prosequi is entered, if the public official is acquitted, or if after conviction the conviction is later overturned as a result of any direct appeal or application for a writ of certiorari, the officer shall be immediately reinstated to the office from which he was suspended. While a public official is suspended under this Paragraph and until initial conviction by the trial court, the officer shall continue to receive the compensation from his office. After initial conviction by the trial court, the officer shall not be entitled to receive the compensation from his office. If the officer is reinstated to office, he shall be entitled to receive any compensation withheld under the provisions of this Paragraph."

SECTION 2.

Article V, Section II, Paragraph VIII of the Constitution is amended by revising subparagraph (b) as follows:

"(b) In case of the death or withdrawal of a person who received a majority of votes cast in an election for the office of Secretary of State; or Attorney General, ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, or Commissioner of Labor,~~ the Governor elected at the same election, upon becoming Governor, shall have the power to fill such office by appointing, subject to the confirmation of the Senate, an individual to serve until the next general election and until a successor for the balance of the unexpired term shall have been elected and qualified."

SECTION 3.

Article V, Section III of the Constitution is amended by revising Paragraph I as follows:

"Paragraph I. ***Other executive officers, how elected.*** The Secretary of State; and Attorney General; ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor~~ shall be elected in the manner prescribed for the election of members of the General Assembly and the electors shall be the same. Such executive officers shall be elected at the same time and hold their offices for the same term as the Governor."

SECTION 4.

Article V, Section III, Paragraph II of the Constitution is amended by revising subparagraph (a) as follows:

"(a) No person shall be eligible to the office of the Secretary of State; or Attorney General; ~~State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, or Commissioner of Labor~~ unless such person shall have been a citizen of the United States for ten years and a legal resident of the state for four years immediately preceding election or appointment and shall have attained the age of 25 years by the date of assuming office. All of said officers shall take such oath and give bond and security, as prescribed by law, for the faithful discharge of their duties."

SECTION 5.

Article V, Section IV of the Constitution is amended by revising Paragraph I as follows:

"Paragraph I. ***'Elected constitutional executive officer,' how defined.*** As used in this section, the term 'elected constitutional executive officer' means the Governor, the Lieutenant Governor, the Secretary of State; and the Attorney General; ~~the State School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, and the Commissioner of Labor.~~

SECTION 6.

Article V, Section IV of the Constitution is amended by revising Paragraph II as follows:

"Paragraph II. ***Procedure for determining disability.*** Upon a petition of any ~~four~~ three of the elected constitutional executive officers to the Supreme Court of Georgia that another elected constitutional executive officer is unable to perform the duties of office because of a physical or mental disability, the Supreme Court shall by appropriate rule provide for a speedy and public hearing on such matter, including notice of the nature and cause of the accusation, process for obtaining witnesses, and the assistance of counsel. Evidence at such hearing shall include testimony from not fewer than three qualified physicians in private

97 practice, one of whom must be a psychiatrist."

98 **SECTION 7.**

99 Article VIII, Section III of the Constitution is amended by revising Paragraph I as follows:

100 "Paragraph I. ***State School Superintendent.*** ~~There shall be~~ The Governor shall appoint a
101 State School Superintendent, who shall be the executive officer of the State Board of
102 Education, ~~elected at the same time and in the same manner and for the same term as that of~~
103 ~~the Governor.~~ The State School Superintendent shall have such qualifications and shall be
104 paid such compensation as may be fixed by law. ~~No member of the State Board of Education~~
105 ~~shall be eligible for election as State School Superintendent during the time for which such~~
106 ~~member shall have been appointed."~~

107 **SECTION 8.**

108 The above proposed amendment to the Constitution shall be published and submitted as
109 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
110 above proposed amendment shall have written or printed thereon the following:

111 "() YES Shall the Constitution of Georgia be amended so as to eliminate the
112 requirement that the State School Superintendent, the Commissioner of
113 () NO Insurance, the Commissioner of Agriculture, and the Commissioner of
Labor be elected officials?"

114 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
115 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
116 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
117 become a part of the Constitution of this state.